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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 98-147

In the Matter of)
)
Deployment of Wireline Services Offering)
Advanced Telecommunications Capability)
)

**BELLSOUTH'S OPPOSITION TO PETITION FOR PARTIAL
RECONSIDERATION AND/OR CLARIFICATION**

**BELLSOUTH CORPORATION AND
BELLSOUTH TELECOMMUNICATIONS, INC.**

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I. Introduction and Summary

BellSouth Corporation, on behalf of its affiliated companies¹ through undersigned counsel ("BellSouth"), and pursuant to Section 1.429(f) of the Commission's Rules, 47 C.F.R. § 1.429(f), files its Opposition to the Petition for Partial Reconsideration and/or Clarification of Sprint Corporation ("Petition").

Sprint seeks clarification of the definition of "premises" to include adjacent controlled environment vaults ("CEV"), based on testimony filed by Keith Milner, a BellSouth Telecommunications, Inc. employee, before the Florida Public Service Commission. As discussed below, BellSouth has implemented the requirements of the *Order* including allowing CLECs to construct adjacent structures in which to collocate. Further, the Florida Commission has granted a continuance in the proceeding in which the testimony of Mr. Milner was filed. To

¹ BellSouth Corporation is a publicly traded Georgia corporation that holds the stock of companies which offer local telephone service, provide advertising and publishing services, market and maintain stand-alone and fully integrated communications systems, and provide mobile communications and other network services world-wide. BellSouth participated in all aspects of the pleading cycle in this rulemaking proceeding.

the extent Sprint relies on the testimony of Mr. Milner to seek clarification, BellSouth does not believe Commission action is needed.

Next, Sprint seeks clarification regarding cageless collocation. Although BellSouth is unsure what Sprint is actually seeking, its ambiguously worded statements raise three distinct issues that require a response: (1) whether a CLEC may collocate its equipment in the same bay with an incumbent LEC's equipment; (2) whether a CLEC may commingle its equipment with an incumbent LEC's equipment; and (3) whether an incumbent LEC may construct a wall or similar structure between its equipment and the CLEC's equipment.

With respect to the first issue, the *Order* leaves no doubt that the smallest increment for providing collocation space is a single bay. As to the second issue, Sprint relies on a portion of paragraph 42 of the *Order* discussing separation of CLEC and incumbent LEC equipment to suggest that CLECs may commingle their equipment among the incumbent LECs' equipment. Paragraph 42 states that the incumbent LEC may separate its equipment from a CLEC by enclosing that equipment in a cage. Accordingly, based on the collocation principles established by the Commission, Sprint's interpretation that it, or other CLECs, may collocate commingled among incumbent LEC equipment is erroneous and no clarification is necessary.

Finally, Sprint asks the Commission to clarify whether an incumbent LEC may construct a wall or similar structure to separate its equipment from the CLEC's equipment. In many instances, BellSouth has prepared collocation space that is separate from its equipment. Collocation in this space will not artificially increase the CLEC's cost or delay its time of placing equipment in the central office. Thus, while the *Order* indicates that, to the extent it is technically feasible, an incumbent LEC may not require a CLEC to collocate in a room or isolated space separate from the incumbent LEC's equipment, the *Order* also made clear that the

intent underlying the new collocation rules is to allow CLECs access to collocation space without artificially increasing their costs or delaying their time of entry. Because the CLEC's collocation cost will not be artificially increased, and its time of entry will not be delayed, the CLECs, including Sprint, should not be concerned with their placement within the central office. Accordingly, based on the principles established by the Commission, no further clarification is needed regarding assignment of collocation space.

In addition to its requests for clarification, Sprint also seeks reconsideration of certain matters that the Commission has fully considered and decided in the *Order*. As demonstrated below, these requests offer no new factual or legal issues and simply repeat issues fully documented and discussed in the comment cycle. Therefore, they fail to meet the Commission's requirements for reconsideration.

II. Sprint's Requests for Clarification

On March 31, 1999 the Commission released its *First Report and Order and Further Notice of Proposed Rulemaking* in the advanced services docket.² In the *Order*, the Commission addressed several issues related to collocation and spectrum compatibility. Sprint seeks what it terms "clarification" of three issues as well as full reconsideration of two issues.³ BellSouth will address each of these issues as they appear in Sprint's Petition.

A. Clarification of the Definition of Premises

Sprint first seeks clarification of the definition of "premises" to include adjacent controlled environment vaults ("CEV"). Sprint bases this need for clarification on testimony

² *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Dkt. No. 98-147, *First Report and Order* ("Order") and *Further Notice of Proposed Rulemaking* ("Notice"), FCC 99-48 (rel. Mar. 31, 1999).

³ Sprint has improperly classified one issue as an item for clarification when actually it seeks reconsideration.

filed by Keith Milner, a BellSouth Telecommunications, Inc. employee, before the Florida Public Service Commission. This testimony implies that competitive local exchange carriers (“CLEC”) may not construct and collocate in adjacent CEVs because such structures would not fall within the definition of premises as defined by the Commission in the *Interconnection Order*.⁴ This is no longer BellSouth’s position.

Consistent with the testimony given in the Florida proceeding, prior to the release of the *Order*, BellSouth had no obligation to allow collocation in an adjacent structure because such a structure would not have housed BellSouth network facilities. This testimony was filed on April 9, 1999, only nine days after the Commission’s *Order* was released. During the time frame between the release of the *Order* and the date the testimony was to be filed, BellSouth evaluated its procedural options, including whether to file a Petition for Reconsideration or an appeal and judicial stay of the *Order*. In the event of a court ordered stay, the *Order* would have been held in abeyance until the appeal could be decided. Given this option, BellSouth had the right to maintain the position that collocation in such adjacent structures was not required up until BellSouth decided to not seek a stay; the stay, if sought, was denied; or the *Order* went into effect without a ruling on the stay.⁵

Since the testimony was filed, however, BellSouth has decided to forego its legal rights to seek a stay of the *Order*. Consequently, it has implemented the requirements of the *Order* including allowing CLECs to construct, subject to the conditions set forth in paragraph 44 of the

⁴ *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *First Report and Order*, 11 FCC Rcd 15499, 15693 ¶ 385 (1996)(“*Interconnection Order*”), *modified on reconsideration*, 11 FCC Rcd 13042 (1996), *vacated in part*, *Iowa Utilities Bd v. FCC*, 120 F.2d 753 (8th Cir. 1997), *aff’d in part and rev’d in part sub nom. AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999).

⁵ The *Order* was published in the Federal Register on April 30, 1999 and became effective on June 1, 1999, 64 Fed. Reg. 23, 229 (1999).

Order,⁶ adjacent structures in which to collocate. On May 21, 1999 BellSouth filed a Motion for Continuance in the proceeding in which the testimony of Mr. Milner was filed. In this Motion BellSouth informed the Florida Commission that it would implement, among other things, the requirement related to “adjacent collocation where space is legitimately exhausted.” The Florida Commission granted BellSouth’s Motion.⁷ To the extent Sprint relies on the testimony of Mr. Milner to seek clarification, BellSouth does not believe Commission action is needed.

B. Clarification of Cageless Collocation

The next item for which Sprint seeks clarification is a confusing request regarding cageless collocation. The request initially asks the Commission “to clarify that ILECs may not require the construction of a wall or similar structure to separate ILEC equipment from CLEC equipment under cageless collocation arrangements.”⁸ The next sentence states, however, that the reason Sprint makes the request is because of “attempts by BellSouth and SBC to require such costly and inefficient construction and to refuse CLECs’ requests to *commingle CLEC equipment in the same bays that house ILEC equipment*.”⁹ Although BellSouth is unsure what Sprint is actually seeking, these ambiguously worded statements raise three distinct issues that require a response: (1) whether a CLEC may collocate its equipment in the same bay with an incumbent LEC’s equipment; (2) whether a CLEC may commingle its equipment with an incumbent LEC’s equipment; and (3) whether an incumbent LEC may construct a wall or similar structure between its equipment and the CLEC’s equipment.

⁶ These conditions include that the space must be exhausted within the premises and the building of the structure and the collocation within must be technically feasible and comply with reasonable safety and maintenance requirements.

⁷ A copy of the Continuance is attached as Exhibit 1.

⁸ Petition at 4.

⁹ *Id.* (emphasis added).

1. Collocation in the Same Bay with an Incumbent LEC's Equipment

To the extent the Petition asks the Commission to clarify that a CLEC may collocate in the same bay with an incumbent LEC's equipment, the Petition is flawed. The *Order* leaves no doubt that the smallest increment for providing collocation space is a single bay. It specifically stated that incumbent LECs are only required to make "collocation space available in *single-bay increments*, meaning that a competing carrier can purchase space in *increments small enough to collocate a single rack, or bay, of equipment*."¹⁰ Indeed, Sprint's Petition even acknowledges this fact.¹¹ It is unreasonable to think that a CLEC would perceive a right to collocate within the "same bay that houses ILEC equipment" given this directive from the *Order*. Accordingly, BellSouth is unclear why Sprint would waste the Commission's time with a request for clarification on this matter.

If the Petition is actually seeking reconsideration on this matter, it has woefully failed to provide even a hint of new evidence to support such a request.¹² Sprint seeks in its Petition that "carriers must be permitted to maintain and install their own equipment commingled with ILEC and/or CLEC equipment, including in the same bays that house ILEC and CLEC equipment." As the *Order* above clearly states, the Commission rejected the idea of collocating in the same bay, however, opting to only allow increments as small as a single bay, but not smaller. Because Sprint has offered no new factual or legal basis to support reconsideration on this matter, the Commission must likewise deny reconsideration, if that is what Sprint seeks.

¹⁰ *Order* ¶ 43.

¹¹ Petition at 5 ("the Commission required ILECs to make collocation space available in single-bay increments").

¹² See 47 U.S.C. § 405(a) and 47 C.F.R. § 1.429(b).

2. Whether a CLEC May Collocate Commingled Among Incumbent LEC Equipment

Sprint also asks the Commission to clarify whether CLECs are permitted to commingle their equipment with incumbent LEC equipment. Sprint relies on a portion of paragraph 42 of the *Order* discussing separation of CLEC and incumbent LEC equipment. Sprint relies on this section to suggest that CLECs may commingle their equipment among the incumbent LECs' equipment. This is an improper reading of the *Order* and the Commission's long standing rules of collocation. Indeed, paragraph 42 of the Commission's *Order*, which Sprint seeks to clarify, expands the space that incumbent LECs must make available for collocation but allows incumbent LECs to separate its equipment from CLECs' equipment.

Paragraph 42 of the *Order* states:

Subject only to technical feasibility and the permissible security parameters outlined below, incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a room, cage, or similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. ... In addition, an incumbent LEC ... may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment. The incumbent LEC may take reasonable steps to protect its own equipment, such as enclosing the equipment in its own cage, and other reasonable security measures as discussed below. The incumbent LEC may not, however, require competitors to use separate rooms or floors, which only serves to increase the cost of collocation and decrease the amount of available collocation space. The incumbent LEC may not utilize unreasonable segregation requirements to impose unnecessary additional costs on competitors.

This *Order* cannot be interpreted in a vacuum and must be viewed in context with other Commission orders on collocation. Significantly, in the *Interconnection Order*, the Commission "allowed [incumbent LECs] to retain a limited amount of floor space for defined future use."¹³

¹³ *Interconnection Order* ¶ 604.

Moreover, the above paragraph 42 states that the incumbent LEC may separate its equipment from a CLEC by enclosing that equipment in a cage. Accordingly, based on the collocation principles established by the Commission, Sprint's interpretation that it, or other CLECs, may collocate commingled among incumbent LEC equipment is erroneous. As the *Order* makes clear, the incumbent LEC may separate its equipment by a cage or similar structure. No "clarification" is necessary.

3. Whether an Incumbent LEC May Construct a Wall or Similar Structure to Separate a CLEC's Equipment from its Own Equipment

Finally, Sprint asks the Commission to clarify whether an incumbent LEC may construct a wall or similar structure to separate its equipment from the CLEC's equipment. In many instances, BellSouth has prepared collocation space that is separate from its equipment. Collocation in this space will not artificially increase the CLEC's cost or delay its time of placing equipment in the central office. Thus, while the *Order* indicates that, to the extent it is technically feasible, an incumbent LEC may not require a CLEC to collocate in a room or isolated space separate from the incumbent LEC's equipment, the *Order* also made clear that the intent underlying the new collocation rules is to allow CLECs access to collocation space without artificially increasing their costs or delaying their time of entry. Accordingly, BellSouth interprets the above rule to continue to permit incumbent LECs to establish reasonable space assignments within a central office to ensure that space is efficiently used consistent with this intent. Such incumbent LEC action is also necessary to assure that the LECs' rights, granted by the Commission, are not subordinated to those of the CLEC.¹⁴

¹⁴ See discussion above regarding collocation principles established in the *Interconnection Order* and in paragraph 42 of the *Order*.

Consistent with the Commission's rules, BellSouth assigns space to a CLEC within its central offices, as opposed to allowing the CLEC to simply select space in an inefficient manner. A systematic process to assign space in an orderly manner is needed to avoid the ineffective use of the available space. If a CLEC were allowed to simply select the space it wanted without any limitation, it would lead to inefficient space allocation. This, of course, would decrease the space available for collocation and ultimately the number of CLECs that could collocate in a central office. Indeed, the Commission recognized the potential problems of improper space allocation in its *Interconnection Order*.¹⁵

Beyond the need to maintain an efficient space allocation process, there are numerous technical factors that only the incumbent LEC is in a position to take into consideration in assigning space within the central office. The following is a partial list of such technical factors that must be considered in determining where physical collocation of a CLEC's equipment should occur within a BellSouth central office:

Cable requirements: Cable congestion and related expense can be avoided or at least minimized by careful consideration of existing and future equipment requirements of both the collocating CLEC and others that have or will later collocate there. Orderly equipment growth, *i.e.*, grouping similar equipment together, allows economic efficiencies while reducing excessive cable rack congestion and resultant re-routing of cables.

Distance between related equipment: Some equipment components, *e.g.*, switch call processors, must be placed so that cable length between the components does not exceed a pre-determined length to avoid service degradation or non-performance.

¹⁵ See *Interconnection Order* ¶ 586 ("Because collocation space on incumbent LEC premises may be limited, inefficient use of space by one competitive entrant could deprive another entrant of the opportunity to collocate facilities or expand existing space.")

Grouping of equipment into families of equipment: Families of equipment, *e.g.*, switching equipment or transmission equipment, must be placed together for technical reasons such as electrical grounding, discussed below, as well as to maximize the contiguous central office space recovered when existing equipment is replaced by more modern equipment. Having all equipment located in the same part of the central office allows the recovery of larger “blocks” of floorspace rather than smaller parcels of floorspace interspersed among other racks of equipment.

Electrical grounding requirements: Switching equipment typically requires an “isolated grounding” source while transmission equipment typically requires an “integrated grounding” source. Safety codes require that equipment served by different grounding sources be physically separated in order to avoid technicians receiving electrical shocks or being electrocuted because they simultaneously contact dissimilar grounding sources.

“Holes” in existing equipment line-ups: “Holes” in equipment line-ups are spaces intentionally left vacant to accommodate forecasted future growth and still assure adherence to the principles described above. (In some cases, cables and framework are modular in nature and economic efficiency results from pre-assembly and provision of such cables or framework.)

Reconciling these types of technical issues with the overall goal of the Commission to ensure that as many CLECs as possible are able to collocate in the space available within a central office without unreasonable delay or expense, BellSouth interprets the rules established in the *Order* to permit BellSouth to assign space in its central offices in an efficient, reasonable manner. BellSouth recognizes the Commission’s requirement that any space assignment cannot artificially increase the CLECs’ cost of collocating, nor delay its placement of equipment in the central office. Moreover, BellSouth commits itself to work with each CLEC to accommodate

that CLEC's location preferences if it has reasonable grounds for preferring a specific location within the central office. Because the CLEC's collocation cost will not be artificially increased, and its time of entry will not be delayed, the CLECs, including Sprint, should not be concerned with their placement within the central office. Accordingly, based on the principles established by the Commission, no further clarification is needed regarding assignment of collocation space.

III. Sprint's Requests for Reconsideration

In addition to its requests for clarification, Sprint also seeks reconsideration of certain matters that the Commission has fully considered and decided in the *Order*. As demonstrated below, these requests offer no new factual or legal issues and simply repeat issues fully documented and discussed in the comment cycle. Therefore, they fail to meet the Commission's requirements for reconsideration.

A. Misabeled Request for Clarification of Carrier Notification

Sprint improperly labels its next request a clarification when it is actually a request for reconsideration. The paragraph of the *Order* in question states "if a carrier claims a service is significantly degrading the performance of other advanced services or traditional voice band services, then *that carrier must notify the causing carrier* and allow that carrier a reasonable opportunity to correct the problem."¹⁶ The *Order* is clear. The carrier whose service is being degraded must notify the carrier who is causing the degrading. Sprint, however, requests the Commission to change the rule to make the incumbent LEC a clearinghouse for notification purposes. Sprint makes this request without presenting any new facts that have not already been presented to the Commission. Indeed, the Commission's conclusion is almost verbatim to Sprint's comments on the matter – "if a service, technology or piece of equipment results in

¹⁶ *Order* ¶ 75.

interference that is inconsistent with [imposed] standards or causes actual trouble in existing service of the ILEC (or of other carriers that may have purchased loops in the same bundle of copper wires), then appropriate action must be taken to notify the carrier causing the problem and to allow for corrective action by that carrier.”¹⁷ The *Order* states “if a carrier claims that a service is significantly degrading the performance of other advanced services or traditional voice band services, then that carrier must notify the causing carrier and allow that carrier a reasonable opportunity to correct the problem.”¹⁸ Sprint’s Petition fails to raise any new factual or legal basis in support of its request that the Commission reconsider its determination on this matter.¹⁹ Accordingly, the Commission must reject Sprint’s request.

Moreover, the Commission should reject Sprint’s request for reconsideration because of its patent unfairness. If the incumbent LEC is causing the problem, or if another carrier is causing the problem affecting the incumbent LEC’s facilities, then the incumbent LEC should be involved in the notification process to work toward rectifying the problem. If the incumbent LEC is not causally related to the problem, however, it should not be saddled with the burden of notifying the various carriers without an opportunity to recover its cost. This is yet another example of the CLECs trying to pin additional administrative burden and cost on the incumbent LECs.

B. Request for Reconsideration of Reservation of Floor Space and Minimum Time Frames for Provisioning Collocation Space

Just as with its mislabeled request for clarification regarding notification, Sprint offers no facts that have not previously been presented to the Commission regarding its requests that the

¹⁷ Sprint’s Comments at 22, filed on September 25, 1998 in CC Docket No. 98-147, (“Sprint’s Comments”).

¹⁸ *Order* ¶ 75.

¹⁹ *See supra*, note 12.

Commission reconsider time limits for the reservation of floor space and minimum time frames for the provisioning of collocation space. In its *Order*, the Commission specifically considered and rejected all of the issues raised by Sprint in its comments pertaining to both of these issues.

1. Reservation of Floor Space

The Commission determined in the *Interconnection Order* that incumbent LECs may reserve floor space for future uses without limiting the amount of time for this reservation. In an attempt to change or modify this rule to place time limits on this reservation, Sprint filed in its September 25, 1998 comments:

... both ILECSs and other carriers should be prohibited from warehousing central office space. ... With respect to use of space for network needs, ILECS should be able to reserve space needed for their network within the next year (on a rolling basis), but if such space is not earmarked for such use, it should be available for collocation. By the same token, requesting carriers should be required to make use of their collocation space ... within six months after the space is ready for occupancy.²⁰

In its June 1, 1999 Petition, Sprint essentially restates its original argument: “Sprint respectfully requests the Commission to reconsider its [*Order*] to require incumbents and collocators to limit any reservation of collocation space to one year and only if that reservation is made pursuant to specific business plans to utilize that space.”²¹

Accordingly, Sprint has failed to raise any new factual or legal basis in support of its request. The only argument that it articulates in support of its request is a vague reference to incumbent LEC’s incentive to “thwart” competition. Sprint has made this argument ad nauseam. Indeed, the Commission is well aware of such an argument and even referenced it in the

²⁰ Sprint’s Comments at 18 - 19.

²¹ *Petition* at 7.

Notice.²² Simply repeating arguments made during the comment cycle, which the Commission was fully aware of and still rejected, is no basis for a Petition for Reconsideration.²³ The Commission must therefore reject this request by Sprint.

2. Provisioning of Minimum Time Intervals

In addition to its request that the Commission reconsider its decision to not place time limits on the incumbent LECs reservation of floor space, Sprint also asks the Commission to change its position and now require incumbent LECs to provision collocation space for requesting carriers within a minimum time frame. Once again, the Commission specifically considered and rejected all of the issues raised by Sprint in its comments pertaining to this issue. In its comments Sprint stated:

With respect to the provision of space itself, for space that has already been conditioned, Sprint believes that such space should be provided within 90 calendar days. Where unconditioned space is involved ... ILECs may require more time to prepare the space for collocation, but in no case should that date exceed 180 days.²⁴

Sprint seeks exactly the same thing in its Petition – 90 days for conditioned space and 180 days for unconditioned space. Not only did the Commission consider Sprint’s proposal in the comment cycle, the Commission specifically rejected the request. It stated: “[w]e do not adopt specific provisioning intervals at this time. We have adopted several new collocation rules in this Order, and we do not yet have sufficient experience with the implementation of these new collocation arrangements to suggest time frames for provisioning.”²⁵ While Sprint’s Petition acknowledges that the Commission rejected the adoption of rules requiring the provisioning of

²² *Notice* ¶ 56.

²³ *See supra*, note 12.

²⁴ Sprint’s Comments at 17.

²⁵ *Order* ¶ 54.

collocation space within minimum time intervals, Sprint proceeds to request the Commission to change its mind without so much as offering any additional factual or legal basis for supporting its position. Sprint's only attempt to express a basis for the request is the restating of the Commission's acknowledgment, within the *Order*, that CLECs need timely provisioning of collocation space. The Commission's vocalization of this concern demonstrates it was fully aware of, and considered, this argument at the time it issued the *Order*, however, it rejected the argument and choose not to require provisioning intervals. Just as with the previous requests discussed above, simply repeating previously made arguments with no additional facts or legal reasoning is no basis for a Petition for Reconsideration.²⁶

IV. Conclusion

Based on the foregoing discussion, the Commission should take no action regarding Sprint's request for clarification that it may collocate in a constructed adjacent structure pursuant to paragraph 44 of the *Order*. Regarding the separation of CLEC's equipment from incumbent LECs' equipment, the *Order* is clear that single bay increments are as small an increment that a CLEC may obtain for collocation and that an incumbent LEC may separate its equipment from the CLEC's equipment by a cage. Accordingly, no clarification is needed. Moreover, if clarification is needed regarding placement of equipment in the central office, the Commission should clarify that an incumbent LEC may assign space on a reasonable basis. Finally, because

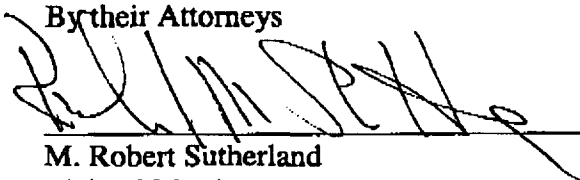
²⁶ See *supra*, note 12.

Sprint has failed to meet the required standard, the Commission should deny all of Sprint's requests for reconsideration.

Respectfully submitted,

BELLSOUTH CORPORATION AND
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By their Attorneys

A handwritten signature in black ink, appearing to read 'M. Robert Sutherland', is written over a horizontal line.

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Re: Docket Nos., 980947-TL, 980948-TL, 981011-TL, and 981012-TL

Dear Ms. Bayó:

Enclosed are an original and 15 copies of BellSouth Telecommunications, Inc.'s Motion for Continuance of the Proceedings. Please file this document in the captioned matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me.

Sincerely,


Nancy B. White

Enclosures

cc: All parties of record
M. M. Criser, III
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CERTIFICATE OF SERVICE
Docket Nos. 980946-TL, 980947-TL, 980948-TL, 981011-TL
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I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

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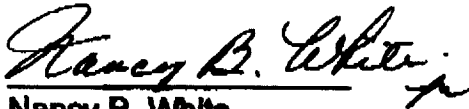
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*** Protective Agreements**


Nancy B. White

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Waiver of Physical) Docket No.: 980946-TL
Collocation Requirements Set Forth)
In the Telecommunications Act of 1996)
And the FCC's First Report and Order,)
for the Daytona Beach Port Orange Central)
Office, By BellSouth Telecommunications, Inc)

In re: Petition for Waiver of Physical) Docket No.: 980947-TL
Collocation Requirements Set Forth)
In the Telecommunications Act of 1996)
And the FCC's First Report and Order,)
for the Boca Raton Boca Teeca Central)
Office, By BellSouth Telecommunications, Inc)

In re: Petition for Waiver of Physical) Docket No.: 980948-TL
Collocation Requirements Set Forth)
In the Telecommunications Act of 1996)
And the FCC's First Report and Order,)
for the Miami Palmetto Central)
Office, By BellSouth Telecommunications, Inc)

In re: Petition for Waiver of Physical) Docket No.: 981011-TL
Collocation Requirements Set Forth)
In the Telecommunications Act of 1996)
And the FCC's First Report and Order,)
For the West Palm Beach Gardens)
Central Office, By BellSouth)
Telecommunications, Inc.)

In re: Petition for Waiver of Physical) Docket No.: 981012-TL
Collocation Requirements Set Forth)
In the Telecommunications Act of 1996)
And the FCC's First Report and Order,)
For the North Dade Golden Glades)
Central Office, By BellSouth)
Telecommunications, Inc.)

In re: Petition for Waiver of Physical) Docket No.: 981250-TL
Collocation Requirements Set Forth)
In the Telecommunications Act of 1996)
And the FCC's First Report and Order,)
for the Lake Mary Main Central)
Office, By BellSouth Telecommunications, Inc) FILED: May 21, 1999

**BELLSOUTH TELECOMMUNICATION, INC.'S
MOTION FOR CONTINUANCE OF THE PROCEEDINGS**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rules 28-106.204 and 28-106.210, Florida Administrative Code, hereby files its Motion for Continuance of the Proceedings scheduled in the above captioned docket. In support thereof, BellSouth states the following:

1. On July 27, 1998, BellSouth filed a Petition for Temporary Waiver for the Daytona Beach Port Orange Central Office and Petitions for Waiver for the Boca Raton Bocca Teeca and Miami Palmetto Central Offices from the provisions of the Telecommunications Act of 1996 ("Act") and the Federal Communication Commission's ("FCC") First Report and Order, FCC Order No. 96-325. These provisions require BellSouth to allow ALECs to physically collocate in BellSouth's central offices unless BellSouth demonstrates that physical collocation is not practical for technical reasons or because of space limitations. On August 7, 1998, BellSouth filed Petitions for Waiver for the West Palm Beach Gardens and the North Dade

Golden Glades central offices. On October 1, 1998, BellSouth filed a Petition for Waiver for the Lake Mary Main Central Office.

2. These dockets were consolidated for hearing purposes.

Discovery has proceeded in these dockets and the Staff conducted audits of the six offices at issue. The hearing on these dockets is scheduled for June 9-11, 1999.

3. On March 31, 1999, the FCC released its First Report and Order and Further Notice of Proposed Rulemaking, FCC Order 99-48, containing new collocation rules. These rules delineate requirements for space allocation, central office tours, reports on space, equipment types and safety standards, security and collocation alternatives, among other things. These rules were published on May 2, 1999 and will become effective on June 1, 1999.

4. As a result of Order 99-48, BellSouth will begin implementation of the vast majority of these rules. Specifically, BellSouth will implement the FCC rules concerning the following:

- (a) Allowing the sharing of collocation cages;
- (b) Cageless collocation;
- (c) Adjacent collocation where space is legitimately exhausted;
- (d) No requirement for walls, separators, separate entrance;
- (e) No requirement for intermediate interconnection device;
- (f) Specified equipment types;

- (g) Tour of premises within ten days of denial due to space exhaust;
- (h) Acceptance or denial of application within ten days with regard to space availability;
- (i) Program for removal of obsolete equipment upon request;
- (j) Security program, including card readers and ALEC training;
- and
- (k) Equipment safety requirements (NEBS level 1).

5. BellSouth is contemplating seeking clarification, waiver, or reconsideration from the FCC on some issues set forth in the order, including a temporary waiver on the time limit for providing space reports, identifying the amount of space available, the number of collocators at each premise, and the actions taken or planned to make additional collocation space available. (Rule 51.321(h)). The basis for this waiver will be the additional time necessary for BellSouth to assess its central offices in the nine states in which BellSouth operates. These issues, however, will not impact whether this Commission should grant the continuance sought by this Motion, nor will they delay BellSouth's reassessment and assignment of space as contemplated by Paragraph 7.

6. Based on BellSouth's plan to implement the majority of the rules contained in FCC Order 99-48, BellSouth requests that these proceedings be suspended and continued for a period not to exceed six weeks. Such a

continuance is necessary because the implementation of these rules for the six central offices at issue will require more action by the ALECs and by BellSouth.

7. First, ALECs who filed applications for physical collocation in the six offices at issue may reassess their original requests in light of the FCC's new requirements. ALECs should be given a set time period in which to submit this information to BellSouth. Two weeks from the date this Motion is granted would be reasonable. Once this information is received by BellSouth, BellSouth will use the information to reassess the six offices at issue, in light of the new rules. Once this review is completed, BellSouth will offer any space found to be available to requesting carriers in the same order as originally requested (based upon the date of the original physical collocation application). If the offer is rejected by an ALEC, BellSouth will go to the next in line. Included in the order of ALECs will be those who were denied physical collocation and, therefore, chose virtual collocation. Not included in the order will be those carriers who initially chose virtual collocation or who have been provided physical collocation in the six central offices at issue. BellSouth will consider the failure by an ALEC to provide this information to BellSouth in a timely fashion to constitute a waiver of the ALEC's original application for physical collocation. BellSouth recognizes that the ALECs, including the intervenors in these dockets, do not necessarily agree with its position on this waiver issue. BellSouth will

complete this reassessment and space assignment within six weeks from the date this Motion is granted.

The parties and Commission staff will be required to attend an informal conference on June 11, 1999, to discuss the status of BellSouth's reassessment of the six offices at issue and any implementation issues that may have arisen. A second formal prehearing conference should be held as close to six weeks from the date of the order granting the continuance as the Prehearing Officer's schedule permits.

8. When the reassessment and allocation of any available space is completed by BellSouth, BellSouth will advise the Florida Public Service Commission ("Commission") of the results. At that point, BellSouth will also be able to advise the Commission as to whether there is a need to continue with the Petitions for Waiver in connection with the six central offices at issue. BellSouth is unwilling, at this time, to simply dismiss the Petitions for Waiver. It is BellSouth's opinion that such an action would be premature at this time. Moreover, in the event that BellSouth must move forward with any of the Petitions, the information developed so far should not be wasted.

9. In addition, BellSouth remains concerned about the issue of code interpretation by building officials in the South Florida area. In certain municipalities, these officials interpret physical collocation as a multi-tenant situation, requiring fire-rated separating walls, among other things. Even though cageless collocation may not require building permits in some

municipalities, BellSouth remains aware that providing cageless collocation in select areas would be considered a violation of certain building codes by local officials. It will be necessary for BellSouth to advise building officials of the FCC Order and BellSouth's subsequent actions. BellSouth may seek the assistance of this Commission and the ALECs on this issue so that BellSouth will not be penalized for a knowing violation, either at the time the collocation is implemented or at the point where BellSouth seeks permits for building additions at the respective central offices.

10. BellSouth believes its request is reasonable and will facilitate the efficient use of resources by the Commission, by the ALECs, and by BellSouth. BellSouth conferred with all the parties of record prior to the filing of this motion. [Statement as to each party and their objection or lack thereof pursuant to Rule 28-106.204, Florida Administrative Code].

BellSouth is authorized to represent that Covad Communications, d/b/a DIECA Communications, Inc.; ACI Corporation; Intermedia Communications, Inc.; Supra Telecommunications and Information Systems, Inc.; Sprint Communications Company Limited Partnership; NorthPoint Communications, Inc.; MCI WorldCom Technologies, Inc.; e-spire Communications, Inc.; Time Warner AxS of Florida, L.P.; Teleport Communications Group, Inc./TCG South Florida do not object to the granting of the requested six week continuance: (a) on the condition that the Commission requires attendance by the parties at the conferences identified in Paragraph 8, and (b) with the

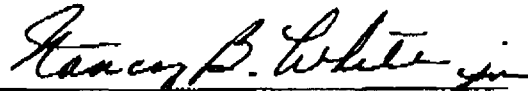
understanding that the parties do not waive any rights, positions or issues available to them in these or other proceedings, or under the FCC's collocation order and rules, and do not necessarily agree with the positions or assertions made by BellSouth in this motion.

Supra has no objection to this continuance, however, neither Supra nor BellSouth waive any rights granted in or relative to Order No. PSC-98-1417-PCO-TP; Order No. PSC-98-0047-FOF-TP; Docket No. 4:99-CV43-RH, United States District Court of Appeals, Northern District; Order No. PSC-99-0060-FOF-TP; and Order No. PSC-99-0582-FOF-TP; Docket No. 4:99-CV-157-RH, United States District Court of Appeals, Northern District; concerning the North Dade Golden Glades and West Palm Beach Gardens central offices.

WHEREFORE, BellSouth requests that its Motion for Continuance of the Proceedings be granted for the reasons stated herein.

Respectfully submitted this 21st day of May, 1999.

BELLSOUTH TELECOMMUNICATIONS, INC.



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163986

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for temporary waiver of physical collocation requirements set forth in the 1996 Telecommunications Act and the FCC's First Report and Order, for the Daytona Beach Port Orange Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 980946-TL

In re: Petition for waiver of physical collocation requirements set forth in the Telecommunications Act of 1996 and the FCC's First Report and Order, for the Boca Raton Boca Teeca Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 980947-TL

In re: Petition for waiver of physical collocation requirements set forth in the 1996 Telecommunications Act and the FCC's First Report and Order, for the Miami Palmetto Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 980948-TL

In re: Petition for waiver of physical collocation requirements set forth in the Telecommunications Act of 1996 and the FCC's First Report and Order, for the West Palm Beach Gardens Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 981011-TL

RECEIVED

JUN 02 1999

VIA FAX - REG RELATIONS
TALLAHASSEE, FL

HQ REGULATORY-ATLA
MIAMI LEGAL

FAX ☒ FED X ☒ KR

ORDER NO. PSC-99-1123-PCO-TL
DOCKETS NOS. 980946-TL, 980947-TL, 980948-TL, 981011-TL,
981012-TL, 981250-TL
PAGE 2

In re: Petition for waiver of physical collocation requirements set forth in the Telecommunications Act of 1996 and the FCC's First Report and Order, for the North Dade Golden Glades Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 981012-TL

In re: Petition for temporary waiver of physical collocation requirements set forth in the 1996 Telecommunications Act and the FCC's First Report and Order, for the Lake Mary Main Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 981250-TL
ORDER NO. PSC-99-1123-PCO-TL
ISSUED: June 3, 1999

ORDER GRANTING CONTINUANCE

On July 27, 1998, BellSouth Telecommunications, Inc. (BellSouth) filed a Petition for Temporary Waiver and two Petitions for Waiver from provisions set forth in the Telecommunications Act of 1996 (Act) and the Federal Communication Commission's (FCC) First Report and Order, FCC Order 96-325, which require the company to allow ALECs to physically collocate in its central offices unless it

. . . demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

47 U.S.C. § 251 (c)(6). On August 7, 1998, BellSouth filed two more Petitions for Waiver from the physical collocation requirements, Docket Nos. 981011-TL and 981012-TL, and on October 1, 1998, BellSouth filed a sixth Petition for Temporary Waiver from the physical collocation requirements, Docket No. 981250-TL. The central offices at issue in these Dockets are the Daytona Beach Port Orange office, the Boca Raton Boca Teeca office, the Miami Palmetto office, the West Palm Beach Gardens office, the North Dade Golden Glades office, and the Lake Mary office, respectively.

ORDER NO. PSC-99-1123-PCO-TL
DOCKETS NOS. 980946-TL, 980947-TL, 980948-TL, 981011-TL,
981012-TL, 981250-TL
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These Dockets have been set for an administrative hearing on June 9-11, 1999. Because they address the same subject matter, these Dockets have been consolidated for hearing purposes by Order No. PSC-99-0476-PCO-TL, issued March 8, 1999.

At the May 17, 1999, prehearing conference BellSouth indicated that it planned to seek a continuance of these proceedings in view of the FCC's Order No. 99-48, issued March 31, 1999. On May 21, 1999, BellSouth filed its Motion for Continuance.

In its Motion, BellSouth asks for a continuance of these proceedings for six weeks. BellSouth states that it needs this additional time because it plans to implement the majority of the FCC's physical collocation requirements set forth in Order No. 99-48. Upon reassessment of the space in these offices, BellSouth states that it will offer any available space to requesting carriers in the order of the original requests.

BellSouth asks that a second formal prehearing conference be scheduled approximately six weeks from approval of its Motion. BellSouth also indicates that the parties and staff will meet on June 11, 1999, to discuss the status of BellSouth's reassessment of these central offices.

BellSouth states that the parties to these proceedings agree that the continuance is appropriate on the condition that the June 11 status conference and the second prehearing conference are, in fact, conducted. BellSouth also states that none of the parties waive any positions or rights on any issues in these or other proceedings.

Upon consideration, BellSouth's request appears reasonable. Therefore, BellSouth's Motion for Continuance is granted.

Based on the foregoing, it is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Motion for Continuance is granted.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 3rd day of June, 1999.

/s/ Susan F. Clark
SUSAN F. CLARK

ORDER NO. PSC-99-1123-PCO-TL
DOCKETS NOS. 980946-TL, 980947-TL, 980948-TL, 981011-TL,
981012-TL, 981250-TL
PAGE 4

Commissioner and Prehearing Officer

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

(S E A L)

BK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I do hereby certify that I have this 12th day of July, 1999, served the following parties to this action with a copy of the foregoing ***OPPOSITION OF BELL SOUTH CORPORATION***, reference CC Docket No. 98-147, by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties as set forth on the attached service list.


Lenora Biera-Lewis

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